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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/539,834	03/31/2000	Todd Siegel	00632649	9608

7590

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EXAMINER

TAWFIK, SAMEH

ART UNIT

PAPER NUMBER

3721

DATE MAILED: 12/04/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/539,834

**Applicant(s)**

SIEGEL ET AL.

**Examiner**

Sameh H. Tawfik

**Art Unit**

3721

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 28 October 2002.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) 1-6 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 7-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

### Attachment(s)

- 15) ☐ Notice of References Cited (PTO-892)                      18) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)                      19) ☐ Notice of Informal Patent Application (PTO-152)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_                      20) ☐ Other: \_\_\_\_\_

Art Unit: 3721

## DETAILED ACTION

### *Election/Restrictions*

Applicant's election of Group II (claims 7-13) in Paper No. 13 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 7-10 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Knudsen (4,490,963) in view of Siegel et al. (4,834,264).

Knudsen discloses a method of filling solid pharmaceutical product packaging comprising the steps of automatically (Fig. 1; via switches board) dispensing one or more solid pharmaceutical products (Fig. 1; via loading station 16) from a plurality of different drug sources (Figs. 4-6 and 12) into each cavity of a plurality of product package cavities (Figs. 1 and 12; via forming station 14); automatically and transferring the solid pharmaceuticals located in the product package cavities into a product package member (Fig. 1; via covering strip 4). Knudsen failed to disclose that dispensing one or more products from a plurality of different drug sources into a common funnel and effecting relative motion between the funnel and plurality of product package template cavities nor the product package template cavities corresponding to cavities of

Art Unit: 3721

a product package member. However, Siegel disclose that dispensing one or more products from a plurality of different drug sources into a common funnel and effecting relative motion between the funnel and plurality of product package template cavities (Fig. 2) and the product package template cavities (Fig. 2; via 46) corresponding to cavities of a product package member. In case that the applicants will not be convinced that Knudsen's reference doesn't disclose the step of automatically dispensing the pharmaceutical products. The examiner believes it would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified Knudsen's a method of filling solid pharmaceutical product packaging by having the step of automatically dispensing the pharmaceutical products, since it has been held that broadly providing a mechanical or automatic means to replace manual activity which has accomplished the same result involves only routine skill in the art. In re Venner, 120 USPQ 192.

Therefore, it would have been obvious to one with ordinary skill in the art at the time the invention was made to have modified Knudsen's method of filling solid pharmaceutical product packaging by having the step of dispensing one or more products from a plurality of different drug sources into a common funnel and effecting relative motion between the funnel and plurality of product package template cavities and the product package template cavities corresponding to cavities of a product package member, as suggested by Siegel, in order to dispense objects of widely differing size and shape (column 2, lines 57-62).

Regarding claim 8: Knudsen discloses that during the step of dispensing the solid pharmaceutical products (via lading station 16) simultaneously sealing another pharmaceutical product package (via sealing station 18) that has been previously filled with a variety of solid pharmaceuticals (Fig. 1).

Art Unit: 3721

Regarding claims 9 and 10: Knudsen discloses a step of printing information on a pharmaceutical product package (via printing station 12).

Claims 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over the prior art as applied to claims 7 and 8 above, and further in view of Bouthiette (6,023,916).

Knudsen failed to disclose a step of dispensing first and second pharmaceuticals into a single template cavity. However, Bouthiette discloses the step of dispensing first and second pharmaceuticals into a single template cavity (Fig. 8) to be administered to a patient whenever the patient has to take the bills together at the same time (column 1, lines 18-22).

Therefore, it would have been obvious to one with ordinary skill in the art at the time the invention was made to have modified Knudsen's method of filling solid pharmaceutical product packaging by having the step of dispensing first and second pharmaceuticals into a single template cavity, as suggested by Bouthiette, in order to be administered to a patient whenever the patient has to take the bills together at the same time.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sameh H. Tawfik whose telephone number is (703) 308-2809. The examiner can normally be reached on Monday - Friday from 8:00 AM to 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rada, Rinaldi can be reached on (703) 308-2187. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-3579 for regular communications and (703) 308-7769 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

ST

December 3, 2002



**EUGENE KIM**  
PRIMARY EXAMINER